

January 5, 2010

7:00 p.m.

Planning Division
Council Chambers

MEMBERS PRESENT: Chair Donna Cosgrove and Commissioners Jake Cordova, Brent Dixon, Kurt Karst, Michelle Mallard, Gary Mills, Jared Peterson, Leslie Polson, Paul Savidis, George Swaney, and Margaret Wimborne.

MEMBERS ABSENT: None

ALSO PRESENT: Planning Director Renée Magee, Assistant Planning Director Brad Cramer, Current Planner DaNiel Jose, and approximately ten interested citizens.

CALL TO ORDER: Cosgrove called the meeting to order at 7:00 p.m. and reviewed the hearing procedures for the public.

MINUTES: December 1, 2009. Cosgrove suggested modifying the last sentence in the second to final paragraph on page 1 to add the word “width” after the “20 foot berm”. The first sentence in the final paragraph should add “in height” after “3 foot berm.” **Commissioner Cordova moved to approve the minutes of December 1, 2009, as amended. Motion seconded by Commissioner Wimborne. Motion passed.**

MINUTES: December 8, 2009 Work Session. Peterson referred to the second to the last paragraph on page 2. The minutes are correct in what he said, but he was referring to a statement made by Paul Savidis. The minutes should read, “Peterson stated Paul Savidis, not present here today, wants a minimum of 30% landscaping.” Dixon indicated Mr. Cook is referred to in the third paragraph on page 2, but Mr. Cook is not identified as an interested citizen. Cosgrove suggested the sentence read, “Mr. Cook, one of the interested citizens, said not every R&D facility . . .” Based upon a question from Karst, Cosgrove replied the first sentence of the second full paragraph on page 4 should be changed to read, “It is agreed open storage should be allowed for research functions. It is not clear whether the storage should be totally screened from view or if there are other measures appropriate for different types of storage.” **Commissioner Wimborne moved to approve the minutes of December 8, 2009, as amended. Motion seconded by Commissioner Mallard. Motion passed.**

Public Hearings:

Zoning Amendment for an R&D-1 Zone for research, development and education uses.

Cramer reviewed the staff report, a part of the record. Drawings were presented as concepts rather than specific proposals. Battelle Energy Alliance (BEA) is concerned a thirty percent limitation on open storage may be too restrictive for their needs. Cramer stated it needs to be clarified if open storage includes loading areas. When drafting this zone, it is important to understand the needs of research institutions.

Cramer stated a concern involving berms is the ability for berms to provide a screen from open view but allow full vehicle movements required for projects. A requirement has been added that plans be designed by landscape architects and approved by an urban forester. The height of the required screen is calculated after five years of expected plant growth.

Cramer noted certain government buildings and major institutions are seeking Leadership in Energy and Environmental Design (LEED) certification through the U.S. Green Building Council. All BEA projects are required to have the LEED Gold standard, the second highest level of certification. Certification is based on credits with landscaping and water systems factored into the credits. One credit can be earned for reducing or using no potable water for landscaping. Projects built on previously undeveloped sites (green fields) limit site disturbance to forty feet beyond the building. A tree ratio of one for every 5,000 square feet of lot, with a minimum of two shrubs per tree, has been added to insure LEED projects have a certain amount of landscaping. Several LEED architects believe the tree ratio will be challenging for compliance, but not impossible.

Comments from the work session led to the maximum lot coverage requirement of seventy percent. The remainder of the lot must be landscaped. Looking at other cities, Provo is on the higher end and requires a maximum of sixty percent lot coverage and forty percent landscaping. Based upon LEED building requirements, Cramer provided optional ordinance language requiring lawn within the site disturbance areas.

The ordinance is drafted to allow open storage as a permitted use. A second option shown as Alternative 2 in the ordinance requires a conditional use permit (CUP) for open storage greater than one-half acre. CUP standards are listed in the staff report, including a limitation for open storage of six acres or thirty percent, whichever is less. The six-acre figure is derived from a BEA Request for Proposals.

Based upon landscaping questions from the Commissioners, Cramer explained the goals of LEED are totally different from the goals of the comprehensive plan. Citizens prefer landscaped areas with lawns, trees and shrubs. LEED requires reduced water consumption. The proposed ordinance is an attempt to balance the two alternatives. Peterson stated he is a LEED credited professional. If lawn is mandated, it becomes the responsibility of the developer or builder to harvest or retain water for site irrigation. If land is disturbed beyond the area allowed, no credit is received. Cramer added native vegetation is required to reduce water usage. To implement the comprehensive plan, the proposed ordinance requires grass within forty feet of the building perimeter, twenty-five feet of surface walkway/parking, and thirty feet of primary roadway curbs. Dixon noted the potential for unfarmed agricultural land to become weed infested. Cramer replied LEED officials explained agricultural land is considered green field and cannot be disturbed beyond LEED building specifications. Dixon questioned if the requirement considers what grows naturally in this region.

Dixon asked if it is necessary to require a licensed landscape architect design the project when the urban forester is to review the design. Cramer answered landscaping issues are complex, and it can be a waste of time for the urban forester to review a project designed without knowledge of the requirements and considerations. Dixon replied he understood: he just does not want this requirement to creep into other zones.

Dixon asked about consistency with open storage requirements among the different zones.. Cosgrove believes the proposed requirement to remove open storage within ninety days of cessation of research is too restrictive. She agreed with Dixon the City appears lax in enforcement of open storage. Cosgrove clarified there are two options for open storage. Option A is allowing up to thirty percent of the site to be open storage as a permitted use. Option B is allowing one-half acre for open storage and requiring a CUP for anything above that amount.

Peterson suggested a ratio of height to distance rather than requiring all buildings to be located at a minimum of twenty feet from all residential zones.

The requirements for a berm were discussed at length. Dixon was concerned the landscaping on the development will be limited to the screen. Karst noted the height of the screen is the important issue. Peterson recommended the width of the berm be reduced to twenty-five feet if a masonry wall is used. Polson stated the wall needs to be as tall as the storage. Cosgrove suggested a berm twenty-five feet in width may be excessive for small storage areas and a CUP allows requirements to be tailored on a case-by-case basis.

Dixon suggested alternate wording for the section on lawns: "In order to reduce water consumption while still enhancing cooling effects in areas of human activity, lawn areas or solid shrubbery/ground cover, at a minimum, shall be located within the following areas: forty (40) feet adjacent to the building perimeter, twenty-five (25) feet adjacent to surface walkways, patios, and surface parking, and thirty (30) feet adjacent to primary roadway curbs." Solid shrubbery or ground cover eliminates bare ground and the heat associated with it.

The hearing was opened to the public.

Carl Cook, Boyer Company – 1150 South Depot Drive, Ogden, Utah. Mr. Cook appreciates the effort expended by the Commissioners. He worked with legal counsel to develop a zone allowing outside storage in a fairly attractive development. He also worked closely with staff who presented a proposed zoning ordinance he felt good about at the meeting on December 1, 2009. From a developer's perspective, it is somewhat deflating to witness the additional level of scrutiny, critique and complication. He wonders if it is possible to work with the proposed zone given the amount of storage on the potential site plan. He appealed to the Commission not to be so restrictive that I&M-1 looks more inviting. There is a role for the new zone, but he asked for moderation and good judgment to find the balance. If the zone is too burdensome, it will not be utilized.

Polson asked about specific concerns. Mr. Cook answered the landscape screen is being proposed for fifty feet in width, the berm grew from three feet to six feet in height, the wall must be solid and perhaps require a retaining wall. There are now issues about the usability of the storage area, outside storage concerns, and conditional uses. These concerns appear to be making this zone quite different from its starting point.

Dixon believes the Commission needs to carefully consider restrictions considering other developments and zones in the City. A cargo container has been at the Mall for a very long time. There is a gated community with a wall and only six feet of grass and an occasional shrub on an arterial street. Cosgrove stated there is the potential to overdesign since the amount of screening depends on the size of storage area.

As to defining open storage, Karst believes open storage should be limited to the lay down area for the stored material provided zoning enforcement assures the open storage area does not expand over time.

Dixon believes the Commission should consider what the zone is trying to achieve. A haystack is not very offensive. Cramer reiterated a showcase area for research and higher education, one that is professional and attractive, is the goal under the comprehensive plan. The zone needs to be drafted considering that goal.

Carl Cook, Boyer Company – 1150 South Depot Drive, Ogden, Utah. In additional comments, Mr. Cook provided a figure as to the amount of land required for fifty feet of berming.

Magee summarized the Commission's discussion by suggesting, if the site is not screened from public streets and/or adjacent properties by buildings, the screening is a landscaped strip twenty-five feet in width with a combination of landscaping, walls and berms. Other zones require landscaping along the public street, e.g., HC-1 requires twenty feet and C-1 requires fifteen feet. Magee believes there needs to be room for trees.

Pat Laney – 2980 Kelly Drive. Mr. Laney expressed some concern for the potential cost of land dedicated strictly for buffering.

There were no further comments and the hearing was closed to the public.

Peterson stated fifty feet of buffering may be excessive. If there is no berm, screening should be six feet in height and needs to be solid with twenty-five feet of landscaping from the wall with evergreen trees to a height of ten feet in five years or the height of storage. Cordova suggested a masonry wall can be expensive also. Dixon suggested an alternative mandating a solid screen as high as the stored material and the amount of landscaping on the public side of the solid screen at least as wide as the solid screen is high. If the solid screen is a berm, the landscaping is a part of the berm. A combination could be used with a three foot berm and six foot fence.

Cosgrove asked if there was a consensus on requiring a conditional use permit. The Commissioners were evenly split. Swaney believes a CUP gives the developer the ability to lay out the site and make a case for the amount of landscaping planned. The Commission's decision would be based on whether the proposed site is consistent with the R&D-1 zone. This alleviates the need to define the screening for all storage areas as long as the basis for making the decision is determined. Cordova suggested developers will prefer I&M-1 rather than the uncertainty of a CUP. Mills stated the criteria for a CUP need to be clear. Karst asked if staff is comfortable with the standards for open storage in the proposed ordinance language. Cramer replied six of the nine standards were derived from Commissioners' comments. Polson suggested, if criteria are set for all open storage, a CUP may not be needed. Cosgrove indicated the problem seems to be what constitutes adequate screening. Polson said a CUP provides the opportunity to see if the screening is adequate, but people have different perspectives on adequate. Wimborne stated a CUP adds flexibility. The requirements without a CUP seem to be too restrictive and cumbersome. Magee reminded the Commission ordinances can be amended.

Polson suggested the standards for a CUP should apply to all open storage. The conditions can be set for screening regardless of the size of open storage. Dixon suggested the only time a CUP may be needed is if research is conducted in the open and not contained in a building. Public protection needs to be considered, including visual protection as well as noise, dust and other nuisances.

Cosgrove asked, assuming the time frame for removal of open storage is increased to one year, if the Commissioners believed the standards generally apply to open storage. There was general agreement. Cosgrove asked if the screening requirement can be flexible enough to handle all open storage areas without conditional use permits. Cordova clarified the original proposal was for a landscape screen at least twenty feet wide and three feet in height with vegetation to reach a height of ten feet within five years.

Peterson believes the screen can be pared down to twenty-five or thirty feet. If trees create a solid wall, quite a bit of screening is created. Cosgrove asked if a masonry wall is sufficient for small storage. Peterson responded a masonry wall adjacent to a residential site is ugly and not the intent of the ordinance. Some landscaping is needed on the public or residential side of the wall to provide an aesthetic screen. Polson believes the screen should be the height of the storage and include a combination of berm, landscaping and masonry walls. There should be thirty percent landscaping on the site. Cosgrove questioned if a masonry wall with a twenty feet of landscaping is sufficient. Polson suggested the revising the language on the screen to reduce the width below fifty feet. Thirty percent landscaping should be required to provide protection and aesthetics. Dixon agreed with the height, evergreens and shrubs, or a masonry wall. If a wall is utilized, landscaping in front of the wall at least as wide as the wall is high should be required comprised of grass, trees and shrubs. Cordova asked why require a wall if it is to be hidden. Polson replied a combination can be used. A wall may not be used, but Dixon noted the landscaping needs to be solid. A wall provides a solid screen and landscaping provides aesthetics. Cosgrove clarified

trees and shrubs alone are sufficient as a screen if they are solid and as high as the items being stored. Peterson wishes the screen be ten feet in height in five years. Polson noted the objective is to screen the storage. Karst clarified a new usage may require new trees in order to provide a screen as high as the storage.

Swaney, noting screening is generally twenty feet in the zone, suggested using twenty feet for the open storage as well. Swaney pointed out there is still a potential for a conditional use permit if the open storage is within seventy-five feet of residential uses.

The core controversial issues were summarized and discussed as follows:

Requirement for a conditional use permit for building over thirty feet in height and open storage within seventy-five feet of residential uses: Dixon suggested two feet for every one foot of height as buffering from adjacent residential uses be required. Magee asked this language not be changed since it exists in the M-1 zone and was inserted into the M-1 zone and this proposed zone to address experiences of an existing neighborhood. Cosgrove clarified a CUP is required for open storage closer than seventy-five feet from a residential area under the proposed language. The Commissioners agreed the wording is appropriate as written.

Conditional use permit for open storage: Cosgrove clarified there will not be a conditional use permit for open storage greater than a certain size. Open storage will be removed within one year of cessation of research.

Height of screening: Peterson believes screening should be a minimum of ten feet and as high as the items being stored. Mallard said storage items can fluctuate. Polson responded the proposed wording requires the screen to be a minimum of ten feet in height and as high as the items being stored. Height of landscaping is considered from a five year expectation. Considering the comprehensive plan, open storage should be screened. This zone will be utilized by people preferring a zone more restrictive than I&M-1. The Commission was in agreement.

Nature of screening: Dixon favors a combination of wall, berm or evergreen landscaping. A solid screen must be formed within five years. Polson clarified a masonry wall must be used in conjunction with landscaping. The Commission was in agreement.

Landscaping requirements for screen: Cosgrove summarized two proposals for landscaping as part of the screen: landscaping as tall as the screen and twenty feet in width on the public side. Karst asked if the same setback required for buildings should be required for outdoor storage. Location and requirement for landscape buffer are two different items. Karst noted if outdoor storage is set back from the main street at least as far as the building, it is not consistent to say twenty feet of landscaping is sufficient adjacent to residential land. Karst suggested requiring all buildings and outdoor storage areas to be set back a minimum distance of thirty feet from any public street and all buildings setback a minimum of twenty feet from all residential zones. Magee clarified exterior storage is not required to be set back seventy-five feet from residential

areas. The ordinance may state all buildings and exterior storage shall be located a minimum of twenty feet from residential areas. Karst suggested landscape buffering width be tied to the setback requirements if possible.

Cosgrove asked what width of landscaping around screening of open storage should be required. Peterson responded a good tree canopy is close to twenty-five feet. Cordova stated twenty feet provides more standardization. Savidis preferred twenty feet in width as previously written. Cosgrove noted requiring twenty feet of width in the proposed text does not mandate external landscaping. She believes the Commission wants a guarantee of some green space from the screen to the street side. Magee suggested evergreen trees and shrubs forming a solid screen at least ten feet in height within ten years shall be placed on the street side or property line side. Cosgrove clarified twenty feet is to be measured from the wall, shrubs, or height of the berm outward. The Commission was in general agreement with a width of twenty feet.

Lot coverage: The proposed language states seventy percent is the maximum for lot coverage. Peterson noted this vicinity is designated as a showcase area and he agrees with the requirement of seventy percent lot coverage. Cordova prefers eighty percent lot coverage because the majority of people in town never drive down University Boulevard. A show of hands was provided and four favored seventy percent lot coverage and six favored eighty percent. The ordinance revision will reflect lot coverage is not to exceed eighty percent. Polson asked the minutes reflect this decision was split. She preferred seventy percent since the zoning is to be more restrictive in this area. Reading from the purpose of the zone, she stated the objectives for the zone are to have buildings with architectural excellence, grounds with an abundance of landscaping, and attractively designed buildings and off-street parking among spacious lawns, trees, shrubs and other landscape features. If a berm is provided and only twenty percent landscaping is required, it is likely the remainder of the grounds will not fit this description.

Definition of open storage: Karst stated, if open storage is designated as only the lay down area, that is, where materials will actually be stored, any drives required to access the storage areas will be regulated under the lot coverage provision and not included as part of the storage area. This will require some supervision by zoning enforcement. His concern is storage encroaching on the drive areas with time and usage. Cosgrove asked if everyone is comfortable with measuring the open storage footprint of the lay down area as open storage. Karst stated screening should be extended to cover the access lanes. Savidis stated the storage should be the storage plus the lanes between the piles of storage but not access to and from the storage. Peterson asked about defining the storage area as all of the area circumscribed within the lay down area. In the site plan being referenced, this includes the area defined by vehicle storage as well as straw and hay storage and the aisles between such areas. Cosgrove clarified open storage includes the contiguous areas to storage but not include the access and turning areas for the truck bays. Karst clarified the storage area and drives associated with storage should be screened with breaches for access. Without this requirement, screening will be ineffectual. In the example site plan provided, Karst believes screening should be required for the lay down area plus whatever surfaces are required to access, load, deliver, pick up or distribute the lay down material. Peterson stated the ordinance indicates

the storage cannot be visible from the public. Karst prefers using that option. The Commission was in agreement regarding the definition of open storage.

Extent of open storage: Cosgrove asked for opinions regarding the current constraint for open storage to be the less of six acres or thirty percent of the developed site. The Commission agreed with this restriction.

A minimum area of lawn: The Commission agreed the ordinance is to require lawn areas or solid shrubbery and ground cover to be located within forty feet adjacent to the building perimeter, twenty-five feet adjacent to surface walkways, patios, and surface parking, and thirty feet adjacent to primary roadway curbs.

Commissioner Wimborne moved to recommend to the Mayor and City Council approval of the ordinance provided staff incorporates the changes in the previous discussion into the ordinance. Motion seconded by Commissioner Savidis. Motion passed unanimously.

Rezone from R-3A (Apartments & Professional Office) to R&D-1 (Research and Development): Lot 3, Block 1, University North. Dixon recused himself from the discussion and vote due to a conflict of interest. Cramer reviewed the staff report, a part of the record. Cramer noted, if the zone is not approved by City Council, this application will be withdrawn.

The hearing was opened to the public.

Carl Cook, Boyer Company – 1150 South Depot Drive, Ogden, Utah. Mr. Cook asked the Commission to grant this request to accommodate a new development.

There were no further comments and the hearing was closed to the public.

Cosgrove noted the staff report contains the considerations for rezoning. **Commissioner Polson moved to recommend to the Mayor and City Council approval of the request for rezoning from R-3A to R&D-1, Lot 3, Block 1, University North. Motion seconded. Swaney moved to amend the motion to be contingent upon the R&D-1 zone being approved. Amendment seconded by Commissioner Savidis. The amendment passed unanimously. The motion passed unanimously.**

Annexation with initial zoning of CC-1 and final plat: Utah Avenue Overlook, Division No. 1. Cramer reviewed the staff report, a part of the record. The parcel lines on the property were drawn to avoid dividing the existing buildings. The staff recommends trees at forty foot centers along Crane Drive. There is a fifteen foot wide utility easement along Crane Drive and the intent is for the trees to be planted in that area. The lots are relatively shallow due to the utility easement, and Porter Canal is on the south side of the easement.

Dixon asked if Porter Canal and the access road on the uphill side of the canal are separate from the existing development. He is trying to understand why it looks like the existing property lines are different than the lots being platted. Mills inquired about the location of accesses onto Crane Avenue. Cramer responded the accesses will meet the Access Management Plan and be 175 feet apart.

The hearing was opened to the public.

Daryl Kofoed – 1020 Lincoln Road. Mr. Kofoed explained the canal company does not own the underlying ground. The canal is not owned to the center of the canal. This plat matches the property previously platted in Snake River Landing. There will be sufficient area to maintain the canal. There is quite an elevation change from the north to the south. The existing canal road is on the shoulder. Cosgrove asked if Mr. Kofoed has talked with the canal company and Mr. Kofoed replied the developer can answer that question. Accesses will be shared and Lot 5 will have its own accesses. The project will comply with the Access Management Plan. Shared accesses are acceptable for every lot except Lot 5.

Lorin Walker – 1070 Riverwalk Drive. Mr. Walker stated the canal company has a statutory right to be on the property. He has a longstanding history of working with the canal. The canal board chairman is present. Mr. Walker agrees with the canal company's requests. The canal company must be able to maneuver through any landscaping. Heavy industrial is being removed from this area and improved to blend with Snake River Landing and Taylor Crossing. He would appreciate approval of this request.

Paul Bergren – 178 E. Bergren Lane, Blackfoot. Mr. Bergren is the senior director of New Sweden Irrigation District. Irrigation districts are quasi-municipalities similar to the City of Idaho Falls. Canal companies are governed by State law. There are approximately 130 miles of canals in Jefferson, Bonneville and Bingham Counties. There are roads on both sides of eighty-five percent of the canals. More access roads are being built all the time. Some canal companies have been afraid to approach people and get access roads, but if there are problems with a canal, property owners do not want the canal company to drive through their property. Mr. Bergren appreciates working with Mr. Kofoed and Mr. Walker. He appreciates the canal company rights-of-way being protected. The canal has been lined through this stretch of property and, through a process of agreements, the New Sweden Irrigation District has a responsibility to maintain the canal. The lining will not last forever and will need to be maintained. Sixteen feet is required on each side of the canals throughout the canal system. State statute mandates having as much area as customary equipment necessitates for maintaining. This area needs to remain a road and not be landscaped.

Steve Keim -2907 Laguna. Mr. Keim represents the land owners on the north and on the west of the proposed site. The application is consistent with the proposed zoning and land use north of this site. He supports the application.

There were no further comments and the hearing was closed to the public.

Dixon stated the recommendation from staff for landscaping along Crane Avenue is excellent. This is an extension of Snake River Parkway connecting to Pancheri and is one of the main access routes into a very large development. The zoning recommendation provides building envelopes and consistency with the property to the south with the same zone. CC-1 does not require setbacks but the condition of the landscape strip will provide a fifteen foot setback. Cosgrove clarified the applicant is in agreement with the landscape strip.

Commissioner Karst moved to recommend to the Mayor and City Council approval of annexation and final plat for Utah Avenue Overlook, Division No. 1, with an initial zone of CC-1 with the conditions a fifteen foot wide landscape strip be developed along Crane Avenue with trees planted no farther apart than forty foot on center and the accesses on Crane Avenue be in accordance with the Access Management Plan. The conditions shall be in the annexation agreement. Motion seconded by Commissioner Mallard. Motion passed unanimously.

Other Business:

Final Plat: 2nd Amended Brodбеcks. Jose reviewed the staff report, a part of the record. Staff recommends Lot 59 be changed to a canal easement because the area is not designated for a pathway. The applications for street and alley vacations have been forwarded to the Public Works Division

Dixon asked about portions of Lots 27 through 31 in the original plat east of the canal that will be stranded by this proposal. Jose replied this issue is being worked out with the adjoining property owners. Cosgrove noted the adjoining owner was in attendance at the November, 2009, meeting and was comfortable with the plan. Dixon was not available for the November hearing.

Cosgrove inquired about trash disposal. Jose responded it was addressed in the planned unit development review and there will be a path to the alley. Peterson asked about landscaping since it did not appear the shared open space met the intent of the ordinance. He asked if any changes have been implemented. Jose answered she has not seen a new planned unit development since the November meeting.

Commissioner Karst moved to recommend to the Mayor and City Council approval of the final plat for 2nd Amended Brodбеcks Addition as presented with the conditions Lot 59 be changed to a canal easement and the recommendation be contingent upon the Council's approval of street and alley vacations. Motion seconded by Commissioner Cordova. Motion passed unanimously.

Miscellaneous

Magee explained Eastern Idaho Technical College has requested to close their accesses to Ashment Avenue and 17th Street to eliminate cut-through traffic. Neither the City Engineer nor Fire Marshall has major concerns. This is a material change to the CUP. The Commission agreed this change is material and a public meeting should be held.

The meeting adjourned at 11:00 p.m.

Donna Carlson, Recording Secretary